

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:12CR212 RC/DDB
	§	
DANTE DWIGHT SMITH	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 30, 2016 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Camelia Lopez.

On December 4, 2013, Defendant was sentenced by the Honorable Ron Clark, United States District Judge, to a sentence of 19 months imprisonment followed by a 3-year term of supervised release for the offense of Stealing Firearms from a Licensed Dealer. Defendant began his term of supervision on June 6, 2014.

On March 7, 2016, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 49). The Petition asserts that Defendant violated the following conditions of supervision:

The Petition alleges that Defendant committed the following violations: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for drug abuse, under the

guidance and direction of the United States Probation Office, until such time Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) Defendant submitted a urine specimen that tested positive for marijuana on October 16; December 1 and 28; and January 25, 2016; (2) All specimens were confirmed positive by Alere Toxicology. Furthermore, Alere Toxicology confirmed new use among the last three positive specimens; and (3) Defendant failed to report for drug testing with Bob Alterman, LCDC-Addiction Treatment Resources, as directed on October 26; November 18 and 23; December 14, 2015; January 8, and 13; and February 19, 2016.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the March 30, 2016 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, with thirty (30) months supervised release to follow.

SIGNED this 22nd day of April, 2016.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE